

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

Born To Rock Design Incorporated,  
Plaintiff,

v.

BigTime TV Limited,  
Defendant.

Civil Action No. 07-6193  
(JGK) (THK)

ECF Case

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**BTR'S EX PARTE APPLICATION FOR ORDER GRANTING LEAVE TO  
SERVE PROCESS BY ALTERNATE MEANS**

Plaintiff Born To Rock Design Incorporated ("BTR"), through its attorneys, applies under Rule 4(f)(3) F.R.Civ.P., for leave to serve defendant BigTime TV Limited ("BTR-UK") by email.

The grounds for this application are set forth in the annexed Declaration of Ilaria Maggioni, Esq. The undersigned attorneys attempted to serve BTR-UK by registered mail requiring signature by the recipient (proper service under UK law and hence under Rule 4(f)(2)(A) F.R.Civ.P.). However, it has been three weeks but the post office has not reported delivering the envelope. Hence, it appears that BTR-UK is not willing to sign for it.

Application denied without prejudice. There is no showing why service under the Hague Convention should not be used, see Fed.R.Civ.P. 4(F)(1), and whether service by E-mail is not prohibited by international agreement and whether service by E-mail is sufficiently formal to provide sufficient notice.

SO ORDERED.  
S. D. S.  
7/24/07

Therefore, approval of an alternate means of service is requested. BTR-UK's email address ([borntorock@bigtime.tv](mailto:borntorock@bigtime.tv)) is stated on its website. BTR-UK's business includes exhibiting and auctioning guitars online. Since BTR-UK does business online, service of BTR-UK by email to the email address posted on its website is a reasonable means of service calculated to notify it of this suit, so that it may appear and answer without further delay. Hence, an order for service by email is earnestly requested.

Dated: July 24, 2007

Respectfully submitted,  
R. KUNSTADT, P.C.

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Attorneys for Plaintiff

**SO ORDERED:**

Dated: New York, New York  
July \_\_\_\_, 2007

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John G. Koeltl  
United States District Judge